

U.S. DEPARTMENT OF LABOR

FREEDOM OF INFORMATION ACT ANNUAL REPORT
January 1, 1997 through September 30, 1997

The Department received a total of 13,717 initial requests for records. The majority of these requests were received by the Occupational Safety and Health Administration (OSHA) which received 8,995 requests. The Employment Standards Administration (ESA) received 2,101 requests.

1. Number of determinations not to comply in whole or in part with an initial request for records: 7,910
2. Authority relied upon in initial disclosure determination:

(a) Under 5 U.S.C. 552(b):*

Exemption 1.	2 times
Exemption 2.	448 times
Exemption 3.	294 times
Exemption 4.	775 times
Exemption 5.	5,739 times
Exemption 6.	2,952 times
Exemption 7(A).	3,843 times
Exemption 7(B).	0 times
Exemption 7(C).	6,027 times

* The number of exemptions asserted exceeds the number of determinations not to comply with an initial request. This occurs because, in responding to a request, the Department may claim several different exemptions.

Exemption 7(D). 3,673 times
Exemption 7(E). 667 times
Exemption 7(F). 2 times
Exemption 8. 0 times
Exemption 9. 0 times

(b) Statute involved pursuant to exemption 3 on initial disclosure determination:

- (1) The Occupational Safety and Health Administration withheld the names of complainants who reported safety and health violations under the authority of section 8(f)(1) of the Occupational Safety and Health Act (OSHA), 29 U.S.C. 657(f)(1). This agency also withheld documents under the authority of section 15 of this statute, 29 U.S.C. 664, which prohibits the disclosure of trade secrets. It also withheld the disclosure of advance notice of a safety inspection under the authority of section 17(f) of the same statute, 29 U.S.C. 666(f). Finally, this agency withheld documents pursuant to the Copyright Act of 1976 (17 U.S.C. 705).
- (2) The Office of Labor-Management Standards invoked section 304(a) of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) (29 U.S.C. 464(a)) to protect the identities of complainants in Title III, LMRDA investigations.
- (3) The Office of the Inspector General (OIG) withheld grand jury material pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure. It also withheld material pursuant to 41 U.S.C. 253(m) which prohibits the release of contractor proposals.

- (4) The Mine Safety and Health Administration (MSHA) withheld the names of miners, pursuant to the Federal Mine Safety and Health Act of 1977, section 103(g)(1)(30 U.S.C.813(g)(1)), who requested safety inspections. It also withheld information to protect the confidentiality of coal mine maps pursuant to section 312(b) of this statute (30 U.S.C. 872(b)). Finally, this agency withheld the names and Social Security numbers of individuals pursuant to the Privacy Act of 1974, 29 U.S.C. 552a.

(c) Other Authority:

Nonpossession of record or nonexistence of record: 2,539

Failure to identify or reasonably describe records: 356

(d) Number of requests withdrawn: 169

(e) Non-payment of fees: 232

3. Names and positions of each person who is responsible for initial denial of records:

A. Occupational Safety and Health Administration

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Region I - Boston, Massachusetts		
C. William Freeman	Area Director	40
Brenda Gordon	Area Director	127
Kipp Hartmann	Area Director	26
K. Frank Gravitt	Area Director	42
David May	Area Director	36

John Stanton	Area Director	48
Ronald Morin	Area Director	68
Clifford Weston	Area Director	38

Region II - New York, New York

John Tomich	Area Director	120
Dennis Gaughan	Area Director	152
Diana M. Cortez	Acting Area Director	55
Maureen Fradkin	Acting Area Director	50
Edward Scott	Area Director	92
David Boyce	Area Director	122
Efraim Zoldan	Area Director	113
Anthony DeSiervi	Area Director	186
Gary Roskoski	Area Director	89
Robert Kulick	Area Director	80
David Ippolito	Area Director	105
Jose Carpena	Area Director	5
Diane Brayden	Area Director	105
Cathie Mannion	Area Director	34
Patricia Clark	Regional Administrator	73

Region III - Philadelphia, Pennsylvania

Linda Anku	Regional Administrator	65
Phyllis Kyner	Area Director	94
George Tomchick	Area Director	111
Andrew Hedesh	Area Director	109

Robert Fink	Area Director	90
Robert Szymanski	Area Director	75
John Stranahan	Area Director	87
Leonard Moore	Area Director	11
Stanley Elliott	Area Director	133
Charles Pope	Area Director	22
Lacy Sutton	Area Director	28
Phyllis Kyner	Area Director	94

Region IV - Atlanta, Georgia

Raymond Finney	Area Director	62
Thomas Brown	Area Director	75
John Hall	Area Director	120
Leslie Grove	Area Director	8
Jose Sanchez	Area Director	198
David Barnhill	Area Director	3
Clyde Payne	Area Director	95
James Borders	Area Director	132
Lana Graves	Area Director	65
Thomas Bosley	Acting Area Director	8
Sharon Ratliff	Acting Area Director	5
Suzanne Street	Area Director	10
Luis Santiago	Area Director	54
Lawrence Falck	Area Director	290
R. Davis Layne	Regional Administrator	51

Arthur M. Johannes	Regional 11(c)/405 Supervisor	5
Susan Johnson	Asst. Regional Administrator FSO	5

Region V - Chicago, Illinois

Michael Connors	Regional Administrator	65
Melvin Lischefski	Area Director	50
Thomas Canard	Asst. Area Director	5
Robert Hager	Asst. Area Director	3
Charles Shields	Area Director	72
Gary J. Anderson	Area Director	64
William Murphy	Area Director	88
Ray Polk	Safety and Health Specialist	81
Deborah Zubaty	Area Director	110
Joanne Ries	Safety and Health Specialist	42
Timothy Kobernat	District Supervisor	1
Nancy Quick	Area Director	109
Barry Slermo	Acting Area Director	139
Gerald Cunningham	Area Director	60
Dave Folk	Area Director	8
Arnis Andersons	Area Director	80
Kenneth Gilbert	Area Director	9

Region VI - Dallas, Texas

Ed Cosgrove	Area Director	73
Paul Brantley	Area Director	170
Robert Homles	Area Director	72

Robert Hunter	Area Director	163
Dean Wingo	Area Director	34
Patricia Bradley	Area Director	79
Ray Skinner	Area Director	35
Paul Hansen	Area Director	93
William White	Area Director	19
Emzell Blanton	Regional Administrator	3
Gerald Foster	11(c)	8

Region VII - Kansas City, Missouri

Charles Adkins	Regional Administrator	46
Cynthia Dearing	Area Director	84
Den Bare	Area Director	40
Janice Barrier	Area Director	86
Thomas Marple	Area Director	8
Lodama Delinger	Area Director	7

Region VIII - Denver, Colorado

Bobby Glover	Area Director	63
John Healy	Area Director	35
David Ditommaso	Area Director	43
Bryon Chadwick	Regional Administrator	9

Region IX - San Francisco, California

Lois Henery	Safety and Health Assistant	34
Cedric Lagajit	Contact Representative	12
Lynne Hunter	Office Manager	4

Sue Benson	Office Manager	7
Collen Furutani	Office Manager	1

Region X - Seattle, Washington

John Spear	Regional Administrator	26
Rayan Kuehmichel	Area Director	22
Barry Noll	Area Director	8
Dean Ikeda	Area Director	9

National Office - Washington, D.C.

Bonnie Friedman	Director	4
Paula White	Director	4
John Miles	Director	20
Steven Witt	Director	2

B. Employment Standards Administration

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
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I. Office of Management, Administration and Planning

Donna G. Copson	Director	4
Nancy L. Ponton	Dir., Div. of Human Resource Mgmt.	2
George Blyther	Chief, Div. of Support Services	1

II. Office of Workers' Compensation Programs

Field Offices

William J. Staarman	District Director (DD) Philadelphia	1
John Chisek	DD, Greensboro, Penna.	1

Basil Voultsides	DD, Norfolk	1
Jeana Jackson	DD, Jacksonville	4
William Franson	DD, Jacksonville	3
Marilyn C. Felkner	DD, New Orleans	1
Ed Bounds	DD, San Francisco	1
Joyce Terry	DD, Long Beach	1

National Office

James L. DeMarce	Director for BL	1
Dennis Mankin	Assistant to the Director	15

IV. Wage and Hour Division

Field Offices

James Sykes	Acting Reg. Administrator (ARA), Boston	25
James Sykes	Acting RA, New York	44
James Sykes	Acting RA, Philadelphia	68
John Bates	Branch Chief, Atlanta	16
John Blaine	Assistant District Dir. (DD), Atlanta	3
Tom Cambron	DD, Atlanta	5
Carol Merchant	ADD, Atlanta	16
Lyndel Erwin	DD, Atlanta	3
Jim Breidenstein	ADD, Atlanta	3
Alfred Perry	RA, Atlanta	2
Jorge Rivero	DD, Atlanta	2
Carrie Riddle	Regional Office Manager Atlanta	83

M. J. Villarreal Jr.	RA, Dallas	192
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Leigh A. Power	Disclosure Officer Western Reg.	44
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Everett Jennings	RD, Kansas City	11
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National Office

John Fraser	Acting Administrator	41
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Corlis Sellers	National Office Program Adm.	26
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Daniel Sweeney	Fair Labor Stds. Act Team Leader	15
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William Gross	Dir. Office of Wage Determinations	6
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Sandra Hamlett	Supervisor, Service Contract Wage Determinations	14
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Carl Polesky	Chief, Br. Of Const. Wage Det.	1
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IV. Office of Federal Contract Compliance Programs

Field Offices

James R. Turner, Jr.	Regional Director, New York	
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James R. Turner, Jr.	Act. Reg. Dir., Boston	24
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Joseph J. DuBray, Jr.	Reg. Dir., Philadelphia	34
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Carol A. Gaudin	Regional Director, Atlanta	51
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Halcolm Holliman	RD, Chicago and Kansas City	49
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Albert C. Padilla	Regional Director, Dallas	52
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Helene H. Haase	Regional Director San Francisco	29
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National Office

Harold M. Busch	Dir., Div. Of Program Operations	7
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V. Office of Labor Management Standards

National Office

John Kotch	Act. Dep. Assistant Secretary	92
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D. Office of the Assistant Secretary for
Administration and Management

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Patricia W. Lattimore	Acting Assistant Secretary Administration and Management, National Office (N.O.)	15
Annabelle T. Lockhart	Director, Civil Rights Center	5
Daniel P. Murphy	Director, Office of Procurement Services, N.O.	10
L.R. Cabe	Regional Personnel Officer Atlanta	2
Robert Giuliano	Regional Personnel Officer Boston/New York	1
Gerald D. Jensen	Regional Administrator Philadelphia	1
William F. Leetch	Regional Personnel Officer Philadelphia	3
Phil House	Regional Administrator Dallas/Denver	2

Robert J. Jur	Regional Personnel Officer Chicago	3
Teresa Rasfeld	Regional Personnel Officer San Francisco/Seattle	4

E. Employment and Training Administration

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Robert J. Semler	Regional Administrator Boston	6
Marilyn K. Shea	Acting Regional Administrator New York	7
Edwin G. Strong, Jr.	Regional Administrator Philadelphia	10
William A. Dealy, Jr.	Regional Management Analyst Atlanta	18
Melvin Howard	Acting Regional Administrator Chicago	4
Joseph Juarez	Regional Administrator Dallas	8
William Hood	Regional Administrator Kansas	3
Armando Quiroz	Regional Administrator San Francisco	3
Michael Brauser	Regional Administrator, Seattle	3
Albert Glastetter	Regional Job Corps Director Boston	1
James Bodnar	Regional Job Corps Director Philadelphia	3

Melvin R. Collins	Regional Job Corps Director Atlanta	25
Richard Trigg	Regional Job Corps Director Chicago	3
Jose M.de.Olivares	Regional Job Corps Director Dallas	1
Raymond Uhalde	Acting Assistant Secretary Employment and Training Administration, Wash. D.C.	1
Bryan Keilty	Administrator Office of Financial and Administrative Management Wash. D.C.	1
Robert D. Parker	Chief, Division of Acquisition and Assistance, Wash. D.C.	38
Grace Kilbane	Administrator Unemployment Insurance Service, Wash. D.C.	2
James H. Norris	Chief, Div. of Foreign Labor Certification, Wash. D.C.	3
Anna W. Goddard	Director Office of National Programs, Wash. D.C.	4
Anthony Swoope	Director Bureau of Apprenticeship and Training (BAT), Wash. D.C.	1
Isadore H. Gross	BAT Regional Director Kansas City	1
William Wadsworth	BAT Regional Director	1

F. Mine Safety and Health Administration

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Glenn R. Tinney	District Manager District 1	4
Joseph J. Garcia	District Manager District 2	3
Kevin G. Stricklin	Acting District Manager District 2	2
Gerald E. Davis	Acting District Manager District 2	1
Timothy J. Thompson	District Manager District 3	1
Lincoln L. Selfe	Acting District Manager District 3	1
Randy Watkins	Chief, Ventilation Section District 3	3
Earnest C. Teaster, Jr.	District Manager District 4	7
Ronald O. Dunbar	Assistant District Manager District 4	4
Richard J. Kline	Assistant District Manager District 4	2
Charles E. McGraw	Assistant District Manager District 4	1
Ray McKinney	District Manager District 5	7
Bill Foutch	Assistant District Manager Technical Division District 5	2
Larry E. Brown	Assistant District Manager Inspection Division District 5	7

James Kiser	Staff Assistant District 5	7
Carl E. Boone, II	District Manager District 6	8
W. Ray Compton	Assistant District Manager for Enforcement, District 6	1
Michael Keene	Assistant District Manager for Technical, District 6	1
Joseph W. Pavlovich	District Manager, District 7	7
James K. Oakes	District Manager, District 8	5
John A. Kuzar	District Manager, District 9	4
Richard Reynolds	Assistant District Manager District 10	1
Michael J. Lawless	District Manager District 11	3
James R. Petrie	District Manager Northeastern District	6
Richard L. Duncan	Acting District Manager Northeastern District	1
Roger F. McClintock	Acting District Manager Northeastern District	1
John K. Radomsky	Assistant District Manager North Central District	9
Robert M. Friend	District Manager Rocky Mountain District	1
Garry J. Day	Assistant District Manager Western District	10
R. L. Brechbiel	Director of Administration and Management	5

Richard A. Gates	Assistant Director of Assessments	5
Vernon R. Gomez	Administrator for Metal and Nonmetal Mine Safety and Health	26
Claude N. Narramore	Acting Administrator for Metal and Nonmetal Mine Safety and Health	10
John F. Langton	Management Officer Coal Mine Safety and Health	1
Ronald J. Schell	Chief, Health Division Coal Mine Safety and Health	1
Lawrence M. Beeman	Chief, Technical Compliance and Investigation Division Coal Mine Safety and Health	32
Allyn C. Davis	Chief, Safety Division Coal Mine Safety and Health	3
George M. Fesak	Director of Program Evaluation and Information Resources	8
Kenneth A. Bullock	Acting Director of Program Evaluation and Information Resources	1

G. Office of the Solicitor

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Marvin Krislov	Deputy Solicitor of Labor for National Operations	4
Judith E. Kramer	Deputy Solicitor of Labor for Planning and Coordination	1

Ronald G. Whiting	Deputy Solicitor of Labor for Regional Operations	12
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H. Pension and Welfare Benefits Administration

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Sharon S. Watson	Dir. of Prog. Svcs. National Office	41
Gregory P. Egan	Regional Director Kansas City	4
David C. Ganz	Regional Director Los Angeles	6
Leonard Garofolo	Regional Director San Francisco	10
Robert A. Jogan	District Supervisor Detroit	4
John Scanlon	District Supervisor Seattle	2
Bruce D. Ruud	Regional Director Dallas	5
Joseph R. Menez	Regional Director Cincinnati	12
Henry DeSantis	Deputy Regional Director Boston	8
Howard L. Marsh	Regional Director Atlanta	11
J. Shannon Davis	Associate Regional Director Atlanta	1
Jesse Day	District Director Miami	3

Virginia C. Smith	Regional Director Philadelphia	14
John Wehrum, Jr.	Regional Director New York	10
Kenneth Bazar	Regional Director Chicago	4

I. Office of the Inspector General

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Pamela Davis	FOIA Disclosure Officer	71

J. Bureau of Labor Statistics

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Katharine G. Abraham	Commissioner of Labor Statistics	10

K. Employees' Compensation Appeals Board

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Michael J. Walsh	Chairman of the Board	9

L. Office of the Administrative Law Judges

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Todd Smyth	Legal Counsel	4

M. The Veterans' Employment and Training Service

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
<u>National Office</u>		
Hary Puente-Duany	Director, Office of Information, Management And Budget, National Office Washington, D.C.	13
Jeffrey C. Crandall	Director, Office of Field Operations and Director of Planning	6
Richard Larson	Director, Office of Field Operations	6
Robert Wilson	Chief, Compliance Programs	2
Espiridion Borrego	Acting Assistant Secretary	1
<u>Regional Offices</u>		
Irvin Pope	Regional Administrator Philadelphia	3
Joseph W. Hortiz	Regional Administrator Philadelphia	1
William J. Bolles, Jr.	Regional Administrator Atlanta	3
Ronald G. Bachman	Regional Administrator Chicago	10
Lester L. Williams Jr.	Regional Administrator Dallas	2
Sharon J. Harrison	Assistant Regional Ad- ministrator Dallas	2
Charles Martinez	Regional Administrator San Francisco	1

N. Office of Public Affairs

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Howard Waddell	Deputy Assistant Secretary	2

O. Administrative Review Board

<u>NAME</u>	<u>TITLE</u>	<u>NUMBER OF DENIALS</u>
Gerald F. Krizan	Executive Director	1

4. Total number of administrative appeals from denials: 197

Total number of dispositions on administrative appeals:	129
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(a) Number of appeals granted in full:	2
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(b) Number of appeals denied in full:	21
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(c) Number of appeals granted in part/denied in part:	57
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(d) Other dispositions: see paragraph 5(b) below	49
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5(a). Exemption invoked on appeal:

Exemption 1.	0 times
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Exemption 2.	2 times
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Exemption 3	3 times
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Exemption 4.	24 times
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Exemption 5.	55 times
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Exemption 6.	6 times
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Exemption 7(A).	16 times
Exemption 7(B).	0 times
Exemption 7(C).	45 times
Exemption 7(D).	26 times
Exemption 7(E).	7 times
Exemption 7(F).	0 times
Exemption 8.	0 times
Exemption 9.	0 times

(b). Other authority:

Non-possession of record: 5

Appeals withdrawn: 44

6. Names and titles of persons responding to administrative appeals:

Bruce A. Cohen, Deputy Associate
Solicitor, acting for the Acting Solicitor
of Labor, J. Davitt McAteer.

7. New rules or instructions issued during this reporting period.

Miriam McD. Miller, Co-Counsel for Administrative Law in the Department's Office of the Solicitor, issued a memorandum, dated February 5, 1997, updating the Department's FOIA Coordinators concerning the requirements of the Electronic FOIA Amendments of 1996 ("E-FOIA"). By memorandum dated February 19, 1997, Ms. Miller informed these same parties of the handbook requirement contained in the E-FOIA amendments. By memorandum dated February 26, 1997, Donna G. Copson, Director of the Office of Management, Administration and Planning for the Department's Employment Standards Administration, informed management officials of additional information concerning the E-FOIA. This memorandum transmitted copies of Ms. Miller's aforesaid two memoranda, dated February 6 and 19, respectively. By memorandum dated March

31, 1997, George M. Fesak, Director of Program Evaluation and Information Resources for the Department's Mine Safety and Health Administration, informed that agency of additional information concerning the E-FOIA. By memorandum dated September 30, 1997, Mr. Fesak provided his agency with additional guidance concerning the E-FOIA. By memorandum dated June 26, 1997, Ms. Miller issued a memorandum informing the Department's FOIA Coordinating Committee members of the need to purchase the annual FOIA Guide and Overview, to be published by the Department of Justice. Copies of all of these memoranda and instructions are attached. (The attachments to the Copson memorandum, written by Ms. Miller, are not included herein since they are duplicative of other materials.)

8. A copy of the Department's fee schedule, and the total amount of fees collected by the agency for making records available.

The Department's fee schedule for 1997 was \$2.50 per quarter hour for search time by clerical employees and \$5.00 per quarter hour for professional employees. Review charges were \$5.00 per quarter hour. Reproduction charges were \$.15 per page. In accordance with the 1986 amendments to FOIA, preferential treatment was given to certain classes of requesters. Consequently, representatives of the news media, and educational and non-commercial scientific institution requesters were afforded free search and review time and 100 pages of documents without charge. All other requesters, with the exception of commercial use requesters, were afforded 2 hours of free search time and the first 100 pages of documents at no charge. Review costs, on behalf of commercial users, were charged at the rate of \$5.00 per quarter hour.

The Department of Labor collected a total of \$150,487.34 in fees.

9. The Department of Labor estimates that incidental costs of implementing the Freedom of Information Act, including the defense of suits, amounted to \$3.5 million.

10. In 1997, ten new lawsuits were filed against the Department of Labor under the FOIA/PA. in two of these cases, the administrative appeal process had not been completed. One of the cases was settled. At the year's end, a total of twelve matters were still pending, which includes three cases from prior years. One decision was handed down in cases pending from the prior years. No disciplinary action was taken against any Departmental employee pursuant to 5 U.S.C. § 552(a)(4)(F).

A handwritten signature in black ink, appearing to read "Alexis M. Herman". The signature is fluid and cursive, with the first name "Alexis" being more prominent.

Alexis M. Herman
Secretary of Labor

Attachment



February 5, 1997

MEMORANDUM FOR ALL AGENCY FOIA COORDINATORS
AND ADP COORDINATORS

FROM: MIRIAM MILLER W.M.
Co-Counsel for Administrative Law

SUBJECT: Update on Electronic FOIA Amendments

March 31, 1997, "is nearly upon." us... March 31? What's so special about March 31? As you know from last-year's 'regular' meetings regarding the Electronic FOIA Amendments of 1996 ("E-FOIA"), that's the day most of the amendments take effect. On behalf of the ongoing Electronic FOIA task force, I want to highlight three important E-FOIA dates for 1997 as well as update you regarding other developments on the E-FOIA front.

- The first important date is: March 31, 1997. Not only do most of E-FOIA's requirements take effect on that date, but agencies must begin making frequently requested FOIA records' ("hot FOIA's") publicly available: Three or more FOIA requests for the same or substantially the same record qualify as a -- "frequent request."
- The second important landmark is: October 2, 1997. On October 2, agencies must adhere to several new time limits when responding to FOIA requests. The attached summary, "Time Limits under the Amendments," explains the new time limits in detail.
- The third important point is: November 1, 1997. On that day, reading room records created on or after November 1, 1996, must be made publicly available on the internet. Also; frequently requested FOIA records must be made..available on the internet.

E-FOIA requires agencies to issue regulations on or before October 2, 1997. The Solicitor's Office will coordinate the Labor Department's efforts to write regulations under the E-FOIA. In doing so, the Solicitor's Office will work closely with the Justice Department. Additionally, as required under the amendments, the Solicitor's Office will be preparing a handbook for obtaining information under FOIA.

Thank you for your cooperation as we implement the Electronic FOIA Amendments of 1996. We will continue to meet with you as

necessary, supply you with E-FOIA updates; address your questions about E-FOIA,. and provide you with appropriate guidance. If you have any questions, please, contact either Miriam Miller or Rodger Pitcairn at 202/219-8188.

Attachment

Time Limits under the Amendments

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1. October 2, 1997. The amendments **establish** several time limits for responding to various **types** of requests,
2. 20-Day Rule. An agency will have 20 working days after receipt of a request for **records** to determine whether to comply **with the request**. **Prior to the amendments**, agencies had only working **10 days to comply**. Congress doubled the **response time** to help agencies reduce **their backlog of FOIA requests**.
3. 10-Day Extensions. **If the agency requires more than 20 days to determine whether to** comply **with a request for records**, **the agency may under "unusual circumstances" request an extension of no more than 10 working days in which to make the determination**. But there are restrictions...
 - a. Written notice.
 - i. The agency must notify the requestor *in writing* that an extension is needed.
 - ii. The agency must also give the requestor an opportunity to narrow the request so that the request can be processed within 20 days.
 - b. "Unusual circumstances" are defined narrowly: there are only three instances under which unusual circumstances may arise.
 - i. Search/collect records in field offices; OR
 - ii. Search/collect a voluminous amount of records; OR
 - iii. Need to consult with other agencies or other components of an agency having a substantial interest in the requested records.
 - iv. Size of an agency's backlog does *not* qualify as "unusual circumstances."
4. Extensions Beyond Initial 10-Day Extensions. Agency may under certain circumstances ask for a further enlargement beyond the initial 10-day extension. But...
 - a. Legislative history explicitly states such additional requests should be made only in "rare" cases.
 - b. Furthermore, the agency and the requestor must "arrange for an alternative time for processing the request or a modified request."
 - c. Amendments create a tension here:
 - i. On one hand, requestors and agencies are being encouraged to negotiate the speed and quantity with which records are provided.

- ii. On other hand, agencies are *very strongly urged* to make determinations within 30 working days.
5. Expedited Requests. Agencies must respond expeditiously to parties with a "compelling need" for records.
- a. "Expeditiously," described as "expedited processing" in the amendments, means responding within 10 days of the request.
 - i. Important: *Not* 10 working days, but 10 *calendar* days.
 - ii. Important: *Not* 10 calendar days after receipt, but 10 after *request is made*.
 - b. "Compelling need" is to be construed *narrowly* and means:
 - i. Failure to provide the requested records could reasonably be expected to pose an imminent threat to life or physical safety of an individual, e.g., deportation to another country where the individual would face certain assassination; OR
 - ii. A request from "a person primarily engaged in disseminating information," *ie*, the news media.
 - (1) The request may concern actual or alleged Federal Government activity. Note: not actual or alleged illegal or improper activity, just *any* "activity."
 - (2) Urgency must be associated with the request; the public's general right to know is not by itself enough to qualify as a "compelling need."
 - iii. Burden is on the requestor to demonstrate "compelling need," but agency should exercise fairness and diligence in judging whether "compelling need" exists.
6. Multi-Track Processing. Agency to use regulations to establish different tracks based on the amount of work or time (or both) in processing requests. Apparently, no limit on the number of tracks which an agency may create. But, in all likelihood, there were will be at least two tracks . . .
- 2. A faster track for simple requests.
 - b. A slower track for more complex requests; however, agencies must give requestors the opportunity to limit the scope of their requests so that the requestors can move from the slower track to the faster track
 - c. In establishing these Backs, agencies must continue using the FIFO (first-in, first-out) method and should exercise "due diligence" within each track



February 19, 1997

MEMORANDUM FOR ALL AGENCY FOIA COORDINATORS
AND ADP COORDINATORS

FROM: MIRIAM MILLER *MM*
Co-Counsel, or Administrative Law

SUBJECT: Electronic FOIA Amendments:
Handbook Requirement

As you know from our regular meetings and various handouts regarding the Electronic FOIA Amendments of 1996 ("E-FOIA"), E-FOIA requires federal agencies to make information more accessible to the public;-- Specifically, E-FOIA directs each federal agency to prepare a handbook. Currently, the Solicitor's Office is working closely with the Justice Department to prepare this handbook.

Under E-FOIA, the handbook should explain how to obtain "various types and categories of public information." Consequently, in all likelihood, the DOL handbook will:

- List types of DOL reading room materials available to the public, indicating that a FOIA request is unnecessary to obtain these items;
- State that after November 1, 1997, reading room materials will be available on the internet;
- Explain how to make a FOIA request to obtain records other than reading room materials;
- Mention potential costs associated with making FOIA requests; and
- Describe what requestors may do if their FOIA requests are denied.

Please feel free to provide us with suggestions you might have for points to include in the handbook-- our goal is to make the handbook as customer friendly as possible.

We will continue to meet with you as necessary, supply you with E-FOIA updates, address your questions about E-FOIA, and provide you with appropriate guidance. If you have any questions, please, contact either Miriam Miller or Rodger Pitcairn at 202/219-8188.




February 26, 1997

Reply to the Attention of: DSS

OMAP NOTICE 97- 41

MEMORANDUM FOR: ESA NATIONAL OFFICE PROGRAM HEADS
ESA REGIONAL ADMINISTRATORS FOR WAGE AND HOUR
ESA REGIONAL DIRECTORS FOR OFCCP
ESA REGIONAL DIRECTORS FOR OWCP
ESA REGIONAL DIRECTORS FOR OLMS
OMAP DIVISION DIRECTORS

FROM: 
DONNA G. COPSON
Director, Office of. Management,
Administration and Planning

SUBJECT: Electronic FOIA Amendments of 1996

This is an amendment to OMAP NOTICE 97-12, dated November 19, 1996 and OMAP NOTICE 97-19 dated December 17, 1996. Since release of those Notices, we have received additional information which will be of interest to you.

These items are: (1) SOL's update on Electronic FOIA Amendments and Time Limits under the Amendments, dated February 5, 1997; and (2) SOL's Distribution of Electronic FOIA Amendments: Handbook Requirements, dated February 19, 1997.

Discussion meetings on the amendments are continuing to take place here in the National Office. In connection with this, as always, we are interested in any input from you, i.e. questions or ideas you may have concerning the amendments' requirements, implementation, etc. _

We will continue to furnish you new information as it is received.

Thank you for your interest and patience.

Expiration date: This Notice remains in effect until superseded or cancelled.

Attachments



EFFECTIVE DATE: 03/31/97

EXPIRATION DATE: 03/31/99

ADMINISTRATIVE POLICY LETTER NO. A97-III-2

FROM:

GEORGE M. FESAK *G.M. Fesak*
Director of Program Evaluation and
Information Resources

SUBJECT:

Electronic Freedom of Information Act
Amendments of 1996 (E-FOIA)

Scope

This policy applies to all components of the Agency-

Purpose

This policy letter conveys requirements of the Electronic Freedom of Information Act Amendments of 1996 (E-FOIA) that are effective March 31, 1997.

Policy

1. Requests for records in a particular format.
Records requested under the Freedom Of Information Act (FOIA) are to be provided in any form or format requested, including electronically, if the record is readily reproducible by the Agency in that form or format. The Agency is to make a reasonable effort to provide documents in the form or format requested and to ensure that records can be readily reproduced.
2. Deletions of material.
When material is deleted from a document, the amount of material deleted is to be indicated at the point of deletion. On hard copies, same-page deletions can be indicated by bracketing spaces where information has been deleted (whited out). On electronic copies, deletions are to be indicated if it is technologically feasible. The requirement to indicate deletions does not apply when in the rare instance doing so would harm an interest protected by a FOIA exemption.



3. Frequently requested records.

Frequently requested records, that is, records for which the Agency has received three or more FOIA requests, are to be made readily available to the public without the necessity of having a subsequent requester file a FOIA request. Each Disclosure Officer is to keep an index of these records and submit it monthly to the MSHA FOIA Coordinator.

4. Electronic searches.

When responding to requests, the Agency is to make a reasonable effort to search for records stored in an electronic form or format. The Agency does not have to conduct an electronic search when in the rare instance that search would significantly interfere with the operation of an MSHA automated information system.'

Sackground

The Electronic Freedom of Information Act Amendments of 1996 address the availability of and **access to** government information in electronic form. These amendments are usually referred to as E-FOIA. Additional E-FOIA requirements will be effective later in 1997 and will be the subject of forthcoming administrative policy letters.

Authority

Public Law No. 104-231, Electronic Freedom of Information Act Amendments of 1996.

Filing Instructions

This policy letter should be filed behind the tab marked Administrative Policy Letters behind Volume III of the Administrative Policy and Procedures Manual.

Issuing Office and Contact Person

Program Evaluation and Information Resources
Charlene N. Barnard, 703 235-1470

Distribution

All Employees
Administrative Policy and Procedures Manual Holders



EFFECTIVE DATE: 09/30/97

EXPIRATION DATE: 03/31/99

ADMINISTRATIVE POLICY LETTER NO. A97-III-3

FROM:

for GEORGE M. FESAK *George M. Fesak*
Director of Program Evaluation and
Information Resources

SUBJECT: Electronic Freedom of Information Act
Amendments of 1996 (E-FOIA)

Scope

This policy applies to all components of the Agency.

Purpose

This policy letter conveys requirements of the Electronic...
Freedom of Information Act Amendments of 1996 (E-FOIA) that...
become effective in October and November 1997.

Policy

1. Time Allowed for Response - Effective October 2
The number of days allowed for responding to a FOIA request is changed from 10 working days to 20 working days. in "unusual circumstances," as specified below, this period of time may be extended, upon written notice to the requester, by no more than 10 working days.

According to the FOIA, "unusual circumstances" means only the following:

- a. the need to collect records from a facility separate from the office processing the request;
- b. the need to search for and examine a voluminous amount of separate and distinct records- that are demanded in a single request; or
- c. the need to consult with another office or agency having a substantial interest in the determination of the request.

Disclosure Officers are encouraged to communicate with the requester and provide an opportunity to limit the scope of

the **request** to enable processing within the set timeframe or to arrange for an alternative timeframe.

2. **Expedited Processing** - Effective October 2

"Compelling need" requests will **receive** expedited or priority processing. A "compelling need" request is defined as a request where:

- a. a failure to obtain requested records on an expedited basis could reasonably **be** expected to pose an **imminent** threat to the life or physical safety of an individual, **e.g.**, a political refugee could be deported; or
- b. the requester is a **person** primarily engaged in disseminating **information** and there **exists** an urgency to inform the public concerning actual or alleged Federal Government activity.

A requester who seeks expedited processing must establish the "compelling need" in a submitted statement, certified to be true and correct to the best of that person's knowledge and **belief**. A "compelling need" request will be processed as soon as *practicable*; however, the requester **must** be notified **within 10 calendar days** from the date of the **request** of whether the **request** is granted.

Disclosure Officers will notify the appropriate Headquarters office prior to *denying* a "compelling need" request.

3. **Estimate of Volume Denied** - Effective October 2

When denying a request, by entire record or pages, the agency is to make a reasonable effort to provide the requester an *estimate* of the volume of matter that is being denied (unless providing such estimate would harm an interest protected by a separate **exemption**).

4. **Electronic Availability of Records** - Effective November 1

To comply with the requirement to make certain records available electronically, **MSHA** will maintain an electronic FOIA reading room on its **WWW** home page. The reading room will contain the following types of records created on or after November 1, 1996:

- a. final opinions and orders made in the adjudication of cases;
- b. statements of policy and interpretations adopted by the agency;

c. administrative staff manuals and instructions to staff that affect a member of the public; and

d. "hot FOIAs," that is, records for which the Agency has received or expects to receive three or more FOIA requests and a continuing public interest is indicated;

The Office of Program Evaluation and Information Resources (PEIR) will maintain the electronic FOIA reading room.

Program areas are responsible for informing PEIR of documents that should be placed in the reading room and providing PEIR with copies (electronic when available) of those documents.

As stated in Administrative Policy Letter No. A97-1, each disclosure officer will keep an index of "hot FOIAs" and submit it monthly to the MSHA FOIA Coordinator.

5. FOIA Annual Report - Effective Fiscal Year 1998 -- The timeframe for the FOIA annual report will change from a calendar-year period to a fiscal-year period beginning Fiscal Year 1998 (October 1, 1997)...

Background

The Electronic Freedom of Information Act Amendments of 1996 address the availability of and access to Government information in electronic form and impose new requirements on Government agencies. These amendments are usually referred to as E-FOIA.

Authority

Public Law No. 104-231, Electronic Freedom of Information Act Amendments of 1996.

Filing Instructions

This policy letter should be filed behind the Administrative Policy Letters behind Volume III of the Administrative Policy and Procedures Manual.

Issuing Office and Contact Person

Program Evaluation and Information Resources
George M. Fesak, (703) 235-8378

Distribution

All Employees
Administrative Policy and Procedures Manual Holders

U.S. Department of Labor

Office of the Solicitor
Washington, D.C. 20210



JUN 26 1997

MEMORANDUM FOR: FOIA COORDINATING COMMITTEE MEMBERS

FROM: MIRIAM MCD. MILLER *MM*
Counsel for Administrative
Law

SUBJECT: The Freedom of Information Act Guide &
Privacy Act Overview 1997 Edition

Enclosed is an announcement from the Department of Justice of the September 1997 publication of its annual Guide & Overview. The deadline for your order is August 15, 1997.

This year, unlike last year, there will be only one publication. The Freedom of Information Act Guide & Privacy Act Overview will provide valuable guidance, as well as the text of both the FOIA and Privacy Act statutes. Due to continuing budget constraints within the Office of the Solicitor, the Division of Legislation and Legal Counsel will be unable to supply any complimentary copies of the Guide & Overview to anyone. Accordingly, we strongly recommend that you order enough additional copies of this volume (at \$4.00 per copy) to provide yourself and each of your disclosure officers, both in the national and regional offices, and anyone else in your agency who should have one, with a copy. An updated Freedom of Information Case List will not be published until September 1998.

Your requisition order should be typed on DOL Form DL 1-72, signed by your administrative officer, and then delivered to the Branch of Printing, OASAM, Room S-1514, Frances Perkins Building, ATTENTION: Maurice Wade, by August 15, 1997.

For further information, contact Marshall Deutsch at telephone number 219-8065, ext. 121.

Attachment



Telephone: (202) 514-3642

Washington, D.C. 20530

June 24, 1997

TO: All Federal Departments and Agencies

Attention: Principal Administrative and Legal
Contacts for Freedom of Information
Act Matters

FROM: ~~Richard L. Huff~~
~~Daniel J. Metcalfe~~
Co-Directors
Office of Information and Privacy

SUBJECT: Freedom of Information Act Guide &
Privacy Act Overview, 1997 Edition

The 1997 edition of the Freedom of Information Act Guide & Privacy Act Overview is scheduled to be published by the Office of Information and Privacy through the U.S. Government Printing Office in September. The Freedom of Information Case List is now published on a biennial cycle, in even-numbered years, and will not be published this year.

The Freedom of Information Act Guide & Privacy Act Overview will feature the "Justice Department Guide to the FOIA," as well as an overview discussion of the provisions of the Privacy Act prepared in coordination with the Office of Management and Budget. It also will contain the texts of those two access statutes.

If your agency would like to have multiple copies of this updated FOIA reference volume, you may obtain them at the original printing cost by "riding" the Department of Justice's base GPO requisition order. To do so, you should determine how many copies you will want at the base price (expected to be approximately \$4.00 per copy this year) and make arrangements with your printing officer to place your agency's order by no later than August 29, 1997. The GPO requisition number for the Guide & Overview is 7-00492. When submitting a requisition for copies, you should use Standard Form One (SF-1); Department of Justice components should use Form DJ-2. Offices outside the Washington, D.C. area should contact their printing or publication officers in Washington for their proper billing codes.

As it has done in the past, the Office of Information and Privacy will send one courtesy copy of the Guide & Overview to

each principal FOIA contact at each agency. Additional copies must either be ordered in advance at the special "rider" price or else purchased at the full price at a GPO bookstore thereafter. Last year, the bookstore price for the Guide & Overview was approximately \$30.00 greater than the "rider" price; it is expected that the "rider" price savings will be comparable this year. OIP's publication editor, Pamela Maida, is available to answer any questions at (202) 514-5105.